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## Highlights of the 1953 Florida Legislative Session

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# HIGHLIGHTS of the 1953 FLORIDA LEGISLATIVE SESSION\*

**ACTIONS.** *Replevin.* A person may elect not to seize the property until after judgment. Thereupon, no bond is required of either party.<sup>1</sup>

**BANKING.** A "Florida Banking Code"<sup>2</sup> has been passed, creating a department of banking,<sup>3</sup> prescribing the organization of banks, general banking regulations,<sup>4</sup> trust powers,<sup>5</sup> and methods of reorganization.<sup>6</sup>

*Savings banks.* Savings banks are now subject to an annual inspection by the commissioner of banking.<sup>7</sup>

**BILLS AND NOTES.** *Checks.* A check more than six months old is deemed "stale" and the bank may refuse to accept it without incurring liability unless otherwise expressly instructed in writing by the drawer.<sup>8</sup>

**CORPORATIONS.** The sections of the corporation statutes have been revised and consolidated into a new chapter leaving only small portions of the old law unrepealed. The words and phrases were changed considerably, but, in most cases, the law remains unchanged. Among the changes is the repeal of the clause prohibiting a corporation from raising the defense of usury. Also repealed were the special sections relating to railroad, telephone and telegraph companies.<sup>9</sup>

**COURTS.** *County judge: Jurisdiction.* In counties where there are no county courts or criminal courts of record, the county judge shall have jurisdiction over all misdemeanors committed within the county.<sup>10</sup>

*Judicial council.* A judicial council<sup>11</sup> shall be established, to be presided over by a justice or a retired justice of the Florida Supreme Court.<sup>12</sup> Its purpose shall be to expedite the administration of justice by suggesting legislative action and changes in court rules.

*Juvenile courts.* There is no method by which the parent or legal guardian can be taken into custody by the judge.<sup>13</sup>

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\*This resume contains only selected highlights of the last legislative session and is printed to give the practitioner an awareness of some of the more important legislative changes. Reference directly to the public laws is essential, as this summary is not complete.

This material was prepared for publication by Moses J. Grundweg and Larry J. Hoffman, edited by Arthur J. Franza.

1. Fla. Laws 1953, c. 28277, amendatory of FLA. STAT. § 78.01 (1951).
2. Fla. Laws 1953, c. 28016.
3. Fla. Laws 1953, c. 28016 § 1, *proposed* FLA. STAT. c. 658 (1953).
4. Fla. Laws 1953, c. 28016 § 2, *proposed* FLA. STAT. c. 659 (1953).
5. Fla. Laws 1953, c. 28016 § 3, *proposed* FLA. STAT. c. 660 (1953).
6. Fla. Laws 1953, c. 28016 § 4, *proposed* FLA. STAT. c. 661 (1953).
7. Fla. Laws 1953, c. 28012, *proposed* FLA. STAT. § 654.09 (1953).
8. Fla. Laws 1953, c. 28016, *proposed* FLA. STAT. § 659.31 (1953), repealing FLA. STAT. § 676.54 (1951) (one year to be "stale").
9. Fla. Laws 1953, c. 28170, *proposed* FLA. STAT. c. 608 (1953).
10. Fla. Laws 1953, c. 28080, amendatory of FLA. STAT. § 36.01 (1951).
11. See 6 FLA. L. REV. 241 (1953).
12. Fla. Laws 1953, c. 28062.
13. Fla. Laws 1953, c. 28011, repealing FLA. STAT. § 516.17 (1951).

*Small claims.* The jurisdiction of the small claims courts has been raised from \$250.00 to \$300.00 in counties having a population in excess of 400,000.<sup>14</sup>

*CREDITORS. Small loans.* The provision allowing a small loan licensee to garnish a borrower's employer for 10% of the borrower's wages has been repealed.<sup>15</sup>

*CRIMINAL LAW. Aircraft.* Causing a death by removing or tampering with the mechanism or any other interference which wrecks or injures any aircraft is first degree murder.<sup>16</sup>

*Autopsies.* At his discretion, the state attorney or county solicitor may order autopsies to determine whether death resulted from a criminal act.<sup>17</sup>

*Bribery: Athletic contests.* The solicitation or acceptance of a bribe to arrange the outcome of athletic contests is a felony.<sup>18</sup>

*Explosives.* Anyone who sells explosives must be licensed and must know the purchaser and his intended use. The law makes it a felony to purchase, keep, store, possess, distribute or use any explosive with the intent to harm life, limb or property.<sup>19</sup>

*Gambling.* Owning or paying the tax for a wagering occupational tax stamp issued by the Federal Government<sup>20</sup> shall be prima facie evidence against the person holding such stamp in any prosecution for the violation of the gambling laws.<sup>21</sup>

*Narcotics: Sale to minors.* Any one unlawfully furnishing narcotics to minors shall upon conviction, be punished by death, unless a majority of the jury recommends mercy.<sup>22</sup>

*Obstructing justice.* The chapter<sup>23</sup> providing for citizens to come to the aid of officers of the law, has been amended to include officers of the Florida Highway Patrol.<sup>24</sup>

*Professional bail bondsman.* No natural person may become a surety on a bail bond or act as agent for a surety unless he is a licensed professional bail bondsman. No professional bail bondsman can suggest any particular attorney, solicit business where prisoners are confined, pay a rebate to a jailer, policeman, peace officer or any other person who has power to arrest, or participate as an attorney in a trial of one whose bond he has posted.<sup>25</sup>

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14. Fla. Laws 1953, c. 28278, amendatory of FLA. STAT. § 78.01 (1951).

15. Fla. Laws 1953, c. 28011, repealing FLA. STAT. § 516.17 (1951).

16. Fla. Laws 1953, c. 28274, amendatory of FLA. STAT. § 782.06 (1951).

17. Fla. Laws 1953, c. 28019.

18. Fla. Laws 1953, c. 28024.

19. Fla. Laws 1953, c. 28144.

20. INT. REV. CODE § 3290.

21. Fla. Laws 1953, c. 28057.

22. Fla. Laws 1953, c. 28097, amendatory of FLA. STAT. § 398.22 (1951).

23. FLA. STAT. c. 843 (1951).

24. Fla. Laws 1953, c. 28118.

25. Fla. Laws 1953, c. 28153.

**Robbery.** A new law erases the distinction between armed and unarmed robbery and prescribed a minimum sentence of 10 years for any robbery.<sup>26</sup>

**Subversive activities.** It is a felony to commit, attempt to commit, aid, advocate or teach the commission of any act intended to overthrow our constitutional form of government. It is also a felony to conspire to commit any such act or to assist in the formation or contribute to the support of any subversive agency.<sup>27</sup>

**Worthless checks.** One who issues a worthless check or obtains property in return for a worthless check shall be punished as if he committed the crime of larceny<sup>28</sup> and the subsequent payment of such worthless checks shall be no defense.<sup>29</sup>

**EDUCATION. Medical examinations.** Children whose parents object to medical examinations due to religious beliefs, will be excused from such examinations provided that the rules relating to contagious diseases are not violated.<sup>30</sup>

**Teachers: Qualifications.** The enabling section<sup>31</sup> providing for special teacher certificates is repealed.<sup>32</sup>

**ELECTIONS. Ballots.** The marking of the ballot, in counties where ballots are used, by a mark other than the customary "x" shall not disqualify the ballot if there is a clear indication of the choice of the voter.<sup>33</sup>

**ESTATES. Adopted children.** An adopted child is considered as a natural brother or sister of the natural children and other adopted children of the adopting parents for the purposes of inheritance.<sup>34</sup>

**Claims against estates.** Any claim against an estate, except mortgages or personal property liens which have been filed but have not been acted upon or contested, shall be barred three years from date of filing.<sup>35</sup>

**Investment by fiduciaries.** Executors, administrators, trustees, and other fiduciaries shall exercise that judgment and care under the circumstances then prevailing in the administration of their office which men of prudence, discretion, and intelligence would exercise in the management of their own affairs.<sup>36</sup>

**EQUITY. Compensation of masters.** A new act allows the court to award masters in addition to regular fees, reasonable sums for extraordinary services.<sup>37</sup>

**FAMILY LAW. Alimony and support.** Orders and decrees for alimony, support

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26. Fla. Laws 1953, c. 28217, repealing FLA. STAT. §§ 813.01, 813.02 (1951).

27. Fla. Laws 1953, c. 28221.

28. See FLA. STAT. c. 811 (1951).

29. Fla. Laws 1953, c. 28096.

30. Fla. Laws 1953, c. 28054, amendatory of FLA. STAT. § 232.30 (1951); see Steinhardt, *Christian Science Religious Freedom and State Control*, 7 MIAMI L.Q. 358 (1953).

31. FLA. STAT. § 231.22 (1951).

32. Fla. Laws 1953, c. 28018 § 2.

33. Fla. Laws 1953, c. 28030, amendatory of FLA. STAT. § 101.011 (1951).

34. Fla. Laws 1953, c. 28223, amendatory of FLA. STAT. § 731.30 (1951).

35. Fla. Laws 1953, c. 28180.

36. Fla. Laws 1953, c. 28154.

37. Fla. Laws 1953, c. 28169, proposed FLA. STAT. § 62.071 (1953).

and maintenance entered by a Florida court may be enforced or amended in any other court of equity in the state sitting where either party resides.<sup>38</sup>

*Uniform dependents law.* The uniform support of dependents law has been adopted.<sup>39</sup> This act provides for reciprocal procedure to compel the support of dependents within and without the state without the necessity of resorting to extradition proceedings<sup>40</sup> and provides for the state's attorney to act as the petitioner's representative.<sup>41</sup> The act does not provide for the extradition of the respondent to the domicile of the petitioning dependents.

*HOMESTEAD. Exemptions: Penalty.* The giving of false information in applying for a homestead exemption shall make the applicant guilty of a misdemeanor.<sup>42</sup>

*INSURANCE. Agents.* The state treasurer is designated as state insurance commissioner to enforce all provisions of the "insurance agents and solicitors license law"<sup>43</sup> which revises the existing law.<sup>44</sup>

*Life insurance: Domestic insurers.* Domestic insurers must invest their funds according to a prescribed list of investments including common or preferred dividend paying stock.<sup>45</sup> but are limited in their holdings of real estate.<sup>46</sup>

*Property: Agent or broker.* No person or firm engaged in the selling of property, or in the lending of money secured by property, may require that a particular insurance company, agent or broker be used in insuring the property.<sup>47</sup>

*Non-admitted insurers.* Health and accident policies are now included among the risks which supervisory general agents can place with non-admitted insurers.<sup>48</sup>

*LIABILITY. Innkeepers: Salesmen.* The liability of operators of hotels, apartment houses, motels or boarding houses shall also apply to sample and display cases of commercial salesmen.<sup>49</sup>

*LIENS. Mechanics' liens.* A single claim of lien is sufficient for claims against more than one improvement to be operated as separate units on separate lots, parcels or tracts of land provided the claim arises from one continuous building operation.<sup>50</sup>

*LICENSES. Driver's license.* The department of public safety, having good cause to believe any licensed driver incompetent or not qualified to be

38. Fla. Laws 1953, c. 28187.

39. Fla. Laws 1953, c. 27996.

40. See UNIFORM RECIPROCAL ENFORCEMENT OF SUPPORT ACT, § 5, 9A U.L.A.

41. Fla. Laws 1953, c. 27996 § 3(7).

42. Fla. Laws 1953, c. 28015.

43. Fla. Laws 1953, c. 28075.

44. FLA. STAT. c. 627 (1951).

45. Fla. Laws 1953, c. 28015 § 1(7).

46. Fla. Laws 1953, c. 28015 § 2.

47. Fla. Laws 1953, c. 28188.

48. Fla. Laws 1953, c. 28022, amendatory of FLA. STAT. § 627.55(6) (1951).

49. Fla. Laws 1953, c. 28129, amendatory of FLA. STAT. § 510.04 (1951).

50. Fla. Laws 1953, c. 28244, amendatory of FLA. STAT. § 84.15 (1951).

licensed, may upon five days written notice require the licensee to be examined.<sup>51</sup>

*Liquor: Transfer.* Upon any transfer of a liquor license, there shall be assessed a transfer license fee, varying according to the provisions of the statute under which the license was originally issued.<sup>52</sup>

*Commercial driving schools.* Businesses, instructors and vehicles used in conducting a school for drivers require licensing.<sup>53</sup>

*Nursing homes.* A chapter providing for the development and enforcement of basic standards for nursing homes has been adopted.<sup>54</sup>

**LIMITATION OF ACTIONS.** *Actions by state.* The provisions of the existing law whereby an action is barred if not commenced within 20 years shall apply to any action by the state or any of its agencies.<sup>55</sup>

**OFFICERS.** *Hotel and Restaurant Commissioner.* A Hotel and Restaurant Commission with a commissioner at its head shall be created with the usual facilities of other executive departments.<sup>56</sup>

**PROCEDURE.** *Eminent domain.* Public utility companies may institute eminent domain proceedings according to the provisions of Florida Statutes c. 74, for the purpose of securing rights-of-way or easements for transmission lines only.<sup>57</sup>

*Mortgages: Foreclosure.* Foreclosure sales may now be made by the clerk of the circuit court, after one publication, with a fee of five dollars to the clerk instead of the prevalent special master's proceeding.<sup>58</sup>

The form of the certificate of sale, to be issued by the clerk after the sale of the mortgaged property, and the certificate of title which will issue ten days after the filing of such certificate of sale are now prescribed.<sup>59</sup>

**PROPERTY.** *Conservation.* The law with respect to conservation, fish and wild life has been revised and consolidated. Provision is made for state control of floods and water sheds. The governor is given power to enter into a compact with the east coast states relating to conservation and fishing.<sup>60</sup>

*Conveyances.* Any conveyance made by the surviving directors of a dissolved foreign corporation, or of a foreign corporation which has had its permit cancelled for failure to pay fees, which has been executed, delivered and recorded for a period exceeding seven years, shall, in the absence of fraud or adverse possession, be deemed authorized and valid.<sup>61</sup>

51. Fla. Laws 1953, c. 28120.

52. Fla. Laws 1953, c. 28123.

53. Fla. Laws 1953, c. 28142.

54. Fla. Laws 1953, c. 28140, *proposed* FLA. STAT. § 400 (1953).

55. Fla. Laws 1953, c. 28270, *proposed* FLA. STAT. § 95.021 (1953).

56. Fla. Laws 1953, c. 28129, revising FLA. STAT. c. 509 (1951).

57. Fla. Laws 1953, c. 28007, *proposed* FLA. STAT. §§ 74.141, 74.142 (1953).

58. Fla. Laws 1953, c. 28093, amendatory of FLA. STAT. § 702.02 (1951).

59. Fla. Laws 1953, c. 28093, amendatory of FLA. STAT. § 702.02 (1951).

60. Fla. Laws 1953, c. 28145, repealing FLA. STAT. c. 373, c. 374, c. 375, and §§ 371.02 through 371.31 (1951), *proposed* FLA. STAT. c. 370 (1953).

61. Fla. Laws 1953, c. 28078.

*Easements.* The common law rule of an implied grant of a way of necessity has been clarified and adopted. The circuit court of the county where the land is located will determine if a claim for the easement exists, and the amount of compensation to be paid for the easement, if any.<sup>62</sup>

*Mortgages: Future advances.* If future advances are made within ten years from the date of recordation of the original mortgage, and are within the maximum principal amount specified in the mortgage, the lien will be valid.<sup>63</sup>

*Riparian rights.* Riparian rights shall not be assessed or extended upon the tax roll for the purpose of taxation, but the value of such rights may be included in determining the assessed value of the land appurtenant.<sup>64</sup>

**PUBLIC WELFARE. Rolls.** The rolls of the state welfare board will be open to quarterly public inspection. This bill was passed by the legislature in 1951, vetoed by the governor in that year, and passed over his veto in 1953.<sup>65</sup>

*Totally disabled persons.* Those persons totally disabled by a permanent physical or medical impairment are eligible for assistance not exceeding \$55.00 per month.<sup>66</sup>

**ROADS. Turnpike.** The newly created Turnpike Commission shall have authority to create a turnpike project, commencing in Dade County, proceeding in a northerly direction toward Duval County, not to exceed a distance of one hundred and ten miles.<sup>67</sup>

**TAXATION. Estates.** Non-resident decedents' estates are now subject to a tax upon intangible personal property having a business situs in the state of Florida and upon securities of corporations organized in Florida in addition to the former tax on real property and tangible personal property located within the state which is transferred upon the decedent's death.<sup>68</sup>

*Estates.* The estate tax is now payable and due fifteen months after the decedent's death in an effort to correspond to the provisions of the federal code.<sup>69</sup>

*Intangible personal property.* Tax on class "C" intangible personal property may now be paid to the clerk of the circuit court at the time of recording the mortgage, deed of trust, or lien securing such indebtedness.<sup>71</sup>

*Retailers: Chain stores.* The progressive element of the retailer's tax as applied to chain stores is amended to a flat sum of ten dollars per store, despite the number of stores operated by the same person or persons.<sup>72</sup>

62. Fla. Laws 1953, c. 28070, amendatory of FLA. STAT. c. 704 (1951).

63. Fla. Laws 1953, c. 28116, amendatory of FLA. STAT. § 697.04 (1951) (formerly six years).

64. Fla. Laws 1953, c. 28262.

65. Fla. Laws 1953, c. 27993, amendatory of FLA. STAT. c. 409 (1951).

66. Fla. Laws 1953, c. 28161.

67. Fla. Laws 1953, c. 28128.

68. Fla. Laws 1953, c. 28031, amendatory of FLA. STAT. § 198.03 (1951).

69. Fla. Laws 1953, c. 28031, amendatory of FLA. STAT. § 198.13 (1951).

70. U.S. Treas. Reg., 105 § 81.63, as amended by T.D. 5239, Mar. 10, 1943.

71. Fla. Laws 1953, c. 28272, amendatory of FLA. STAT. § 199.11 (1951).

72. Fla. Laws 1953, c. 28028, amendatory of FLA. STAT. § 204.02 (1951).

**WILLS. Estates: Disposition of estate income.** The personal representative distributes any income of the estate, not used for the payment of debts or provided for in the will, in this order:

- a) income from specific legacies to the specific legatees.
- b) legal interest to general legatees on their respective legacies from the time fixed by the county judge in an order of distribution.
- c) residuary legatees.<sup>73</sup>

**WORKMAN'S COMPENSATION. Review of compensation orders.** Review of compensation orders is no longer a matter of right. Reviews of full commission orders are subject to review only by petition for writ of certiorari in the Supreme Court of Florida.<sup>74</sup>

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73. Fla. Laws 1953, c. 28025, amendatory of FLA. STAT. § 733.01 (1951).

74. Fla. Laws 1953, c. 28241, amendatory of FLA. STAT. § 440.27 (1951).